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REC'D TO  
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OFFICE OF THE  
EXECUTIVE SECRETARY

Direct Dial: 615/259-1492

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August 29, 2001

David Waddell, Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243

RE: Petition of Citizens Telecommunications Company of Tennessee for Approval of  
a Motion to Waive Non-Recurring Charges Associated with Basic Local Service  
for Customers in McMinnville and Sparta Exchanges

Docket No. 01-00582

Dear Mr. Waddell:

On behalf of Citizens Telecommunications Company of Tennessee ("Citizens"), I am  
enclosing with this letter an original and thirteen copies of Citizens' response in the above  
referenced matter.

Copies are being served on counsel for all parties of record. Should you have any  
questions or require anything further at this time, please do not hesitate to contact me.

Sincerely,



Guilford F. Thornton, Jr.

cc: J. Michael Swatts

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**IN RE:        PETITION OF CITIZENS TELECOMMUNICATIONS COMPANY  
              OF TENNESSEE FOR APPROVAL OF A MOTION TO WAIVE  
              NON-RECURRING CHARGES ASSOCIATED WITH BASIC  
              LOCAL SERVICE FOR CUSTOMERS IN MCMINNVILLE AND  
              SPARTA EXCHANGES**

**Docket No. 01-00582**

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**RESPONSE OF  
CITIZENS TELECOMMUNICATIONS COMPANY OF TENNESSEE**

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Citizens Telecommunications Company of Tennessee ("Citizens") files this Response to the Complaint and Petition to Intervene ("Complaint") previously filed by the Consumer Advocate and Protection Division of the Office of Attorney General (hereinafter "Consumer Advocate") in this matter. Citizens objects to the allegations made in the Consumer Advocate's Complaint and requests that the Authority approve Citizens' promotional filing without delay.

1.        On March 27, 2001, Citizens filed with the Authority a written notification requesting approval of a promotion to waive non-recurring charges associated with basic local service for customers in McMinnville and Sparta exchanges for a 90 day period from April 16 to July 15, 2001. On April 12, 2001, the Consumer Advocate filed a Petition to Intervene, but the TRA never granted intervention status. It is important to note that Citizens' proposal mirrored a special promotion for these same exchanges pursuant to TRA approval in November, 2000 which was implemented without objection

from any party. Because of the Consumer Advocate's action, Citizens was not able to implement the special promotion in a timely fashion and the actual promotion ran from June 22, 2001 through July 15, 2001, or a total of only 24 days.

2. Since the earlier promotion period was shortened, Citizens once again filed a written notification on June 28, 2001, requesting approval to waive charges (Docket Number 01-00582). This special promotion would run from July 16, 2001 through October 13, 2001. On July 11, 2001, the Consumer Advocate filed its Complaint, asking the Authority to disapprove Citizens' filing. In its Complaint, the Consumer Advocate takes the unusual position of opposing a filing which, if approved, would result in lower rates for the citizens of McMinnville and Sparta. Citing Tennessee Code Annotated § 65-4-122 and § 65-4-123, the Consumer Advocate alleges that Citizens' promotion would be anticompetitive and discriminatory. Just the opposite is true. Here again, Citizens' ability to compete is hindered by regulatory delays while its competition has the flexibility to waive charges without regulatory approval and erode Citizens' customer base.

3. Citizens' promotional offering, in fact, represents an effort to compete. Citizens is targeting its marketing of the proposed promotion to the McMinnville and Sparta exchanges because of the stiff competition it faces there. In its McMinnville exchange alone, Citizens has lost over 60% of its access lines due to the entry of Ben Lomand Communications, CLEC affiliate of the Ben Lomand cooperative serving parts of that region. Unless Citizens can offer promotions such as the one proposed herein, its ability to compete with CLECs such as Ben Lomand will be severely undermined.

4. T.C.A. § 65-4-123 sets forth the pro-competitive policy of the state adopted by the General Assembly concerning telecommunications services. Specifically, T.C.A. § 65-4-123 prohibits “unreasonable prejudice or disadvantage to any telecommunications services provider.” Citizens must be allowed to utilize the tools available to it in order to compete in the McMinnville and Sparta exchanges. Currently Citizens is at a disadvantage. Under its existing tariff Citizens is not allowed to waive installation charges pursuant to a promotion such as this. As such, a customer in McMinnville or Sparta has little incentive to subscribe to Citizens’ service. Competing with the affiliate of an entrenched, well-funded telephone cooperative, which is relatively unregulated, is difficult enough. This filing serves simply as a tool to promote competition. Denying Citizens’ promotional offering would put Citizens at an unreasonable disadvantage vis-a-vis Ben Lomand.

5. The Consumer Advocate alleges that permitting Citizens to offer this promotion in Sparta and McMinnville without requiring Citizens to offer the same to its customers in Weakley, Putnam and Cumberland Counties amounts to unjust discrimination in violation of T.C.A. § 65-4-122. On the contrary, every customer in McMinnville and Sparta has access to the proposed promotion. There is no different treatment among customers in the McMinnville and Sparta exchanges.

6. T.C.A. § 65-4-122(a) prohibits different treatment of persons “*under substantially like circumstances and condition.*” (emphasis added) The fact is competitive conditions

are substantially different in McMinnville and Sparta than they are in the other exchanges served by Citizens. In McMinnville and Sparta there is substantial competition from a CLEC which, under favorable regulatory conditions, is winning customers away from Citizens on a daily basis. Competitive conditions are significantly different in Weakley, Putnam and Cumberland Counties. Different circumstances call for a different approach to marketing. Further, Citizens' proposal treats similar customers similarly. Citizens will offer **all** customers in McMinnville and Sparta the same promotional packages. There is no discrimination among citizens of McMinnville or Sparta. In the same way, Citizens does not discriminate among customers in, for instance, the Dresden exchange. Accordingly, the goals underlying TCA 65-4-122 are not disturbed by Citizens' promotional filing for the McMinnville and Sparta exchanges.

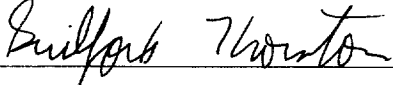
7. The Consumer Advocate's Petition ignores a practice common to ratemaking in Tennessee, whereby a local exchange carrier uses "rate groups" to establish tiers for pricing. A local exchange carrier files tariffs with different tiers of pricing based on applicable circumstances. For example, under rate group pricing, customers in heavily urban areas may enjoy marginally lower basic rates than those in sparsely populated areas. Likewise, a local exchange carrier may file a tariff according to wire centers pursuant to a geographic breakdown. Each of these approaches meets with favorable treatment from the Authority. These approaches do not cause any harm to competition in Tennessee nor do they produce unjust discrimination or Tennessee citizens. Furthermore, the TRA, in Docket Number 00-00965, approved a tariff filing by Citizens that established a lower Automatic Access Line ("AAL") rate for business customers in

McMinnville and Sparta than it charges AAL customers in Citizens' other Tennessee exchanges.

8. In *Consumer Advocate Division v. Tennessee Regulatory Authority and United Telephone-Southeast, Inc.*, 2000 Tenn. App. LEXIS 687 (Tenn. App. October 12, 2000), the Tennessee Court of Appeals found that "the purpose of the 1995 Act was to ease the traditional regulatory constraints on local telephone companies and to permit greater competition for local telecommunications services." Citizens' promotion at issue here presents an attempt on the part of Citizens to compete, utilizing a vehicle traditionally approved by the Authority. Disallowing this promotion will impede competition and result in higher prices to the citizens of McMinnville and Sparta, Tennessee. There is no unjust discrimination.

**WHEREFORE**, Citizens prays that the Authority deny the Petition of the Consumer Advocate and approve the promotion filed by Citizens in this matter.

Respectfully submitted,

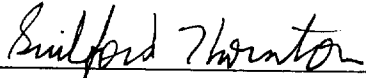
  
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Counsel for Citizens Telecommunications of Tennessee

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served upon the following individual, via U.S. Mail, on this 29<sup>th</sup> day of August, 2001.

Shilina B. Chatterjee  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, TN 37202

  
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Guilford F. Thornton, Jr.